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EXAMINER

TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/858,387	Applicant(s) CHANG ET AL.	
	Examiner MARCOS L. TORRES	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11-16-07, 1-22-08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7-10-07 have been fully considered but they are not persuasive.
2. Applicant amended the claim to include a new limitation, but the new limitation has a relative term which renders the claim indefinite, since the term "panel arranged to have substantially different field of view" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Then in claim 9, applicant further limits that the panels covers the same field of view. It is unclear if the field of view of the two claims are the same and if the field of view is describing area or direction. For examination purposes, since applicant further define that substantially different view is the same field of view, and applicant in his remarks admitted that this taught by Murray, the a arguments are moot. The same applies to claims 20 and 21.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1, 9 and 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. The term "substantially different field of view" in claim 1, 9 and 20-21 is a relative term which renders the claim indefinite. The term "substantially different field of view" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. And at the same time claims 9 and 21 seems that contradict their corresponding independent claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 3-12, 14 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross US006556809B1 in view of Murray 5666128.

As to claim 1, Gross discloses a communications system (see fig. 1, item 100) for communicating with mobile user terminals (see fig. 1, item 130) comprising: a base station having an adaptive antenna, having a plurality of main array antenna elements for simultaneously generating a plurality of dynamic communication beams that move with the mobile terminals (see fig. 1, item 110; col. 4, 46-58; col. 5, lines 7-14, 38-51; col. 6, lines 3-24, 25-32; col. 9, lines 28-67; col. 10, lines 36-52; col. 11, lines 1-9; col. 12, lines 4-16); and a gateway station coupled to said base station, said gateway station forming a plurality of beams commands for each of the plurality of panel by communicating a plurality of control signals to the base station to form the plurality of dynamic communication beam (see fig. 1, item 120; col. 2, lines 56-61; col. 3, lines 55-63; col. 4, 46-58; col. 5, lines 7-14, 38-51; col. 6, lines 3-24, 25-32; col. 9, lines 28-67; col. 10, lines 36-52; col. 11, lines 1-9; col. 12, lines 4-16). Although is commonly known to use modular systems with the antenna by using panels, Gross does not specify using a plurality of panels. In an analogous art, Murray discloses a communication system using a plurality of panels with a [substantially different which is the same] field of view (see col. 4, lines 39-40; col. 1, lines 30-33). Therefore, it would have been obvious to

one of the ordinary skill in the art at the time of the invention to add this teaching to the Gross apparatus for having a modular system with enhanced coverage.

As to claim 3, Gross discloses a communications system wherein said base station comprises a plurality of auxiliary elements for canceling interference between the plurality of dynamic communication beams (see col. 4, lines 38-64).

As to claim 4, Gross discloses a communications system wherein said plurality of auxiliary elements is weighted to provide interference canceling (see col. 4, lines 38-64).

As to claim 5, Gross discloses a communications system wherein said gateway station is rf coupled to said base station (see col. 2, lines 62-63; fig. 1 item 110, 120, 122).

As to claim 6, Gross discloses a communications system wherein said base station is wireless (see col. 2, lines 62-63; fig. 1 item 110, 112, 122, 134).

As to claim 7, Gross discloses a communications system wherein said gateway station is positioned on a stratospheric platform (see col. 3, lines 55-63).

As to claim 8, Gross discloses a communications system wherein said adaptive antenna comprises a phased array antenna (see col. 4, lines 10-18).

As to claim 9, Murray discloses a communications system as recited wherein said main array antenna elements are a modular using a plurality of panels with a [substantially different which is the same] field of view (see col. 1, lines 5-8, 30-33).

As to claim 10, Gross discloses a communications system wherein said main array antenna elements comprise a plurality of modules coupled to a bus (see fig. 2, items 204,206,208,210,212 214, 202).

As to claim 11, Gross discloses a communications system as recited in claim 10 wherein said bus is coupled to a controller (see fig. 2, items 204,206,208,210,212 214, 202).

As to claim 12, Gross discloses a communications system further comprising a plurality of user terminals receiving said plurality of dynamic communication beams (see col. 2, lines 34-43).

As to claim 14, Gross discloses a communications system further comprising a nulling processor (see col. 4, lines 46-64; col. 8, lines 18-46).

As to claim 20, Gross discloses a communications system (see fig. 1, item 100) for communicating with mobile user terminals (see fig. 1, item 130) comprising: a plurality of wireless base stations having adaptive antennas, having a plurality of main array antenna elements, simultaneously generating a plurality of dynamic communication beams that move with the mobile terminals (see fig. 1, item 110; col. 4, 46-58; col. 5, lines 7-14, 38-51; col. 6, lines 3-24, 25-32; col. 9, lines 28-67; col. 10, lines 36-52; col. 11, lines 1-9; col. 12, lines 4-16); a gateway station coupled to said plurality of wireless base stations through a plurality of multiple dynamic links, said gateway station forming a plurality of beams for each of the plurality of panels by communicating a plurality of a control signals to the base station to form the plurality of dynamic communication beams (see fig. 1, item 110; col. 4, 46-58; col. 5, lines 7-14, 38-51; col. 6, lines 3-24, 25-32; col. 9, lines 28-67; col. 10, lines 36-52; col. 11, lines 1-9; col. 12, lines 4-16) so that a user receives at least a first link from a first base station of the plurality of wireless base stations and a second link from a second base station of the

plurality of wireless base stations (see col. 10, lines 8-36). In an analogous art, Murray discloses a communication system using a plurality of panels with a [substantially different which is the same] field of view (see col. 4, lines 39-40). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Gross apparatus for having a modular system with enhanced coverage.

Regarding claim 21 is the corresponding method claims of system claims 20. Therefore, claim 21 is rejected for the same reason shown above.

As to claim 22, Gross discloses a method further comprising canceling interference between said multiple dynamic links (see col. 3, lines 23-32).

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of Murray as applied to claim 1 above and further in view of Kasperkovitz (U.S. Patent 4,631,499).

As to claim 13, Gross and Murray do not specifically disclose a communication system further comprising a limiter coupled to a feedback path. In an analogous art, Kasperkovitz discloses a communication system further comprising a limiter coupled to a feedback path (see col. 7, lines 6-9). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the modified Gross and Ward system for the simple purpose of controlling a device more efficiently.

11. Claims 15-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of Murray as applied to claims 1 above, and further in view of Agee (U.S. Patent US006128276A).

As to claim 15-17 and 19, Gross discloses nulling and weighted feedback (see col. 4, lines 46-64; col. 8, lines 18-46). Gross and Murray do not specifically disclose a communication system further comprising a code despread. In an analogous art, Agee discloses a communication system further comprising a nulling processor further comprising a code despread and weighted feedback (see col. 23, lines 7-29; col. 11, lines 33-48). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the modified Gross and Ward system for the simple purpose of enhanced quality of communication by rejecting interference.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross in view of Murray as applied to claim 1 above, and further in view of Janc (U.S. Patent 4,893,316) and further in view of Sayegh (U.S. Patent US006084541A).

As to claim 18, Gross discloses a communication system wherein said base station comprises a plurality of summing blocks coupled to the main array for generating a summed signal (see col. 4, lines 46-64) with a gateway station comprising an analog to digital converter (see col. 4, lines 10-17; col. 3, lines 55-63) and summed signal coupled to a digital beam forming circuit (see col. 4, lines 1-9, 18-27). Gross and Murray do not specifically disclose an A/D converter coupled to a noise injection circuit and the summed signal. Janc discloses a communication system comprising A/D converter coupled to a noise injection circuit and the summed signal (see col. 4, lines 18-28).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use this technique in to increase the reliability of the communication.

Gross, Murray and Janc do not disclose the summed signal coupled to a demultiplexer In an analogous art, Sayegh discloses a signal coupled to a demultiplexer (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use this technique in order to process the signal.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be mailed to:

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Art Unit: 2617

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

mlt